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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,464	10/03/2003	Kirk Michael Bresniker	200208654-1	3328

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EXAMINER

NGUYEN, THUY-VI THI

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10678464	10/3/2003	BRESNIKER ET AL.	200208654-1

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EXAMINER

THUY-VI NGUYEN

ART UNIT	PAPER
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Commissioner for Patents

The IDS on 08/27/08 has been reviewed, signed and recorded. Attachment is the copy of the 1449.

Section 9, NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 USC § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim(s) recites/recite the following means (or step) plus function limitation: “means for controlling automatic retrieval of rack equipment related information from at least one component....rack of equipment” and “means for processing information and instructions, wherein said means for processing information and instructions is configured for processingequipment information”. This limitation invokes 35 USC § 112, ¶ 6 because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase “means for” or “step for” (or appellant identifies the limitation as a means (or step) plus function limitation in the appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. “If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section § 112.” In re *Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242. In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function: [Figure 3, depicts "Description Retrieval Module 321" and pages 13, lines 15-25, recites "a rack

equipment description retrieval module 321 controls automatic retrieval of rack equipment description information"] [Figure 3, depicts "Repository management component 320", and pages 10, lines 23-26 recites "repository management component 320 manages information flow to and from equipment description information repository 311 and management plan information 312"; pages 12, lines 15-25 recites "Repository management component 320" can retrieve the equipment information, can interface with a database of client information and extract information associated with a rack equipment management plan information"].

However, the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. It appears that the rack equipment information is controlled by a retrieval module 321, and the characteristics of the rack equipment is processed and managed by a "repository management component 320". However, the specification does not describe how the rack equipment information is controlled, processed and managed. Specially, the specification does not provide the algorithm for the claimed means for controlling, processing as such appellants have failed to adequately describe sufficient structure for performing the functions claimed.

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